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Report of the Special Rapporteur on the situation of human rights defenders on his mission to Azerbaijan: comments by the State

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the comments by the State on the report of the Special Rapporteur on the situation of human rights defenders on his mission to Azerbaijan, which took place from 14 to 22 September 2016.

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Report of the Special Rapporteur on the situation of human rights defenders on his mission to Azerbaijan (14 - 22 September 2016): comments by the State*

General comments

1. The Government of Azerbaijan has been closely cooperating with the Special Rapporteur on the situation of human rights defenders in line with the United Nations Human Rights Council resolution 16/5. The visit by the Special Rapporteur to Azerbaijan on 14-22 September 2016, which took place in accordance with the standing invitation of Azerbaijan, was considered in the context of contribution to further enhancement of constructive cooperation between Azerbaijan and relevant UN mechanisms. As a sign of openness and willingness for constructive engagement the Azerbaijani side organized all requested meetings of the Special Rapporteur with authorities, as well as created necessary conditions for the Special Rapporteur to meet with persons in detention upon his request. Furthermore, Azerbaijani side provided additional information to the Special Rapporteur and his staff after the visit thereby demonstrating readiness for continued engagement.

2. However, the report of the Special Rapporteur on his mission leaves an impression that this document runs against the spirit of cooperation between Azerbaijan and UN human rights mechanisms. It fails to reflect positive developments in the country in respective fields thereby creating a wrong impression on the real situation on the ground. The report of the Special Rapporteur is one-sided, biased and unbalanced. Such an approach by the Special Rapporteur renders very little to enhancement of constructive interaction between Azerbaijan and UN mechanisms and in fact could potentially negatively impact future relations between the country and the human rights mechanisms of the organization.

3. The Special Rapporteur chose to build his judgment and provide an assessment of the situation on the basis of numerous references to the reports of international governmental and non-governmental organizations, Azerbaijani NGOs, as well as web-sites of news agencies. The credibility of most of these sources raises serious questions due to the lack of their objectivity and impartiality. In this context, it is rather regrettable that despite numerous meetings with authorities during the visit, which were characterized as fruitful by both the Special Rapporteur and respective government institutions, the report contains very little, if not any references to information provided to the Special Rapporteur during those meetings and after his visit. It therefore prompts valid questions about the necessity for Special Rapporteur's visit and added value of the meetings he had with authorities during the visit.

4. Inclusion of some assessments, particularly on economic situation of the country, could be considered as unrelated to the subject of the present report and offering no added value due to the loose connection between the allegations on the complexity of economic situation and its impact on the situation of the human rights defenders. Moreover, reference to the political system as "increasingly authoritarian" is completely false and out of context and by making such a reference the Special Rapporteur oversteps his mandate. In spite of existence of legally valid court sentences, there are claims in the report on falsification of charges against certain individuals. Such claims should be considered as disrespecting the independence of the court system and legitimacy of the court decisions. The allegations on stigmatizing impact of the use of rhetoric against human rights defenders by government officials are also in a sense quite absurd as they overlook genuine conducive environment

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for the operation of civil society and efficient interaction between the civil society and the government.

9. Although the Special Rapporteur refers to the UN Declaration on Human Rights Defenders, an extensive assessment of the situation on freedom of expression, freedom of information, freedom of association, freedom of peaceful assembly and access to justice overlaps with the mandates of other respective special rapporteurs. Furthermore, by urging the Governments and international community to refer to this Declaration the Special Rapporteur should also acknowledge that said Declaration shall not be misused in the performance of his own responsibilities. The preliminary statement of the Special Rapporteur left an impression among the government agencies that a number of references contained in the statement were outside of the mandate of the Special Rapporteur and careful study of the present report suggests that not much has changed in this respect.

6. The Government of Azerbaijan attaches particular importance to enhanced cooperation with the UN mechanisms. Extension of standing invitation to UN special procedure mandate holders, within the framework of which Special Rapporteur's visit to Azerbaijan took place, is an example of Azerbaijan's approach. Azerbaijan is ready to continue enhanced dialogue and interaction with UN human rights mechanisms on the basis of mutual respect and understanding and expects similar attitude from these mechanisms. Azerbaijan side hopes that in the future this interaction will be pursued in the spirit of constructive dialogue and based on balanced and objective assessments.

Specific comments

I. International, regional and national framework

7. The effectiveness of combating corruption has been characterized by positive indicators in the report of "2016 Global Corruption Barometer" of Transparency International. The position of Azerbaijan has also increased in the "Corruption Perception Index".

8. Taking into account the importance of international cooperation in this field, Azerbaijan, being one of the founders of the International Association of Anti-Corruption Authorities (IAACA), takes an active part in its work.

9. In 2016 the Anti-Corruption Department under the Prosecutor General examined 9 [illegible] appeals by the citizens. 251 facts of criminal nature were examined, criminal investigation on 199 of them were launched. The Department completed investigation of 201 criminal cases launched against 301 individuals and brought the cases before the courts in 2016.

10. It is worth mentioning that the resolution on "Prevention of corruption by promoting efficient public service delivery through technological innovations" submitted by Azerbaijan was unanimously adopted within the Conference of the States Parties to the United Nations Convention against Corruption in November, 2015. The resolution encourages States to share their best practices in the application of technological innovations and electronic services in public service delivery.

11. Establishment and successful functioning of the State Agency for Services to Citizens and Social Innovations under the President of the Republic of Azerbaijan (ASAN or Easy Services) is the model of effective public governance in the region. ASAN has significantly increased public confidence in state bodies and is now widely recognized. ASAN was awarded with the United Nations Public Service Award.

III. Civil society environment

A. Legal and institutional framework

12. The President of the Republic of Azerbaijan initiated the September 2016 Referendum in line with the right he is granted by Clause 18 of Article 109 of the Constitution of the Republic of Azerbaijan. The Constitution of the Republic of Azerbaijan envisages no mechanism whereby the President of Azerbaijan should consult Azerbaijani Parliament in order to implement the foregoing right. The 2009 Referendum on amendments to the Constitution of the Republic of Azerbaijan was directly initiated by the Parliament of Azerbaijan that, notably, never consulted the President either.

13. The Draft Referendum Act on amending Azerbaijani Constitution was published on July the 18th, 2016. There was enough time from July 18 through 26 for every citizen of Azerbaijan and every organization to have provided their feedback on the Draft. On 26 July, the approved Draft was published yet again, this time together with some recommendations of the Constitutional Court. 70 days was enough of a period for anyone to consider and even study the Draft Referendum Act.

14. Under the system of the division of powers, the legislative and executive branches of a presidential republic fall under different realms of institutional responsibility. Theoretically, the Parliament can adopt a resolution of no confidence in the Cabinet of Ministers on an unlimited number of occasions and during any period. This can virtually bring about mere incapacitation of the executive power, which is even more unacceptable for a country that for almost three decades has been in a state of war with Armenia. The aim of the amendment was to enhance political responsibility of the Parliament concerning the issue of expressing confidence in the Cabinet of Ministers.

15. Both the Constitutional Court and Supreme Court are collegial bodies that adopt decisions on a collegial basis. The Constitutional Court passes decisions in the course of its general proceedings while the Supreme Court makes decisions at plenary sessions. In order to ensure collegial function of the courts, the Parliament must nominate more than a half of these courts' judges. Based on Article 86 and Article 102 of Constitution of the Republic of Azerbaijan, the Constitutional Court is entitled to approve the results of Parliamentary and Presidential elections. However, this Constitutional requirement can easily be violated by Parliament's failure to nominate 5 out of 9 members of the Constitutional Court thus making its function obsolete. As the head of the State, the President of the Republic of Azerbaijan must ensure proper functioning of all state institutions.

16. On April 27, 2016, the President of Azerbaijan approved the "National Action Plan on Open Government Promotion for 2016-2018". This Plan will contribute inter alia to improvement of anticorruption legislation, supporting economic reforms through anticorruption measures, raising awareness of citizens, strengthening contacts with civil society, and increasing citizens' confidence in public authorities.

17. Pursuant to the article 7 of the Constitution, state power in the Republic of Azerbaijan is based on a principle of division of powers:

- Milli Mejlis of the Republic of Azerbaijan exercises legislative power;
- executive power belongs to the President;
- law courts exercise judicial power.

18. According to provisions of the present Constitution executive, legislative and judicial powers interact and are independent within the limits of their authority.

19. Fully aware of the role that the vibrant civil society can play in a democratic country, the Government of Azerbaijan has taken continuous steps in ensuring free functioning of non-government organizations and further enhancing the capacities of the domestic NGOs.

20. On 21 October 2016, President of Azerbaijan signed the Decree "On the application of the principle of single window in the procedure of grant-giving by international donors on the territory of the Republic of Azerbaijan", which serves to increase support to the activities of civil society institutions, and simplification of grant-giving procedures and transparency. Measures are being taken for the implementation of this important document.

21. Relevant applications of each foreign donor organization were examined in accordance with the national legislation and comments were provided timely by the Ministry of Finance. In 2016 applications of 9 out of 11 foreign donor organizations were considered positively, whereas applications of another 2 organizations were returned due to shortcomings in their papers. Applications of those organizations have been considered positively after they had duly addressed their shortcomings.

B. Situation of human rights defenders

1. Stigmatization, 2. Criminalization

22. Conducive environment is in place for free and unhindered functioning of the civil society organizations in Azerbaijan which attests itself among others in the overall number of non-government organizations operating in the country. It is worth mentioning that 309 non-commercial organizations were registered in 2015-2016 bringing total number of registered organizations to 4369.

23. Allegations about politically motivated judicial proceedings, including against human rights defenders are not valid. It should be noted that in Azerbaijan only persons suspected in committing a concrete crime are brought to liability and principle of equality of all before law is always observed irrespective of an origin, property and official status, beliefs, belonging to political parties, labor unions and other public associations, as well as other circumstances.

24. According to the legislation judicial proceedings in Azerbaijan are carried out on the basis of principles of competitiveness and presumption of innocence. These principles are steadily observed in practice.

25. Several groundless comments on the lack of independence of the court system and its functioning under the Government's influence, as well as allegations on unfair dismissal of some members of the Bar Association based on their activities can be assessed as lop-sided approach of the Special Rapporteur.

26. On the allegations related to updated list of "political prisoners" it has to be underlined that the arrests and detentions of some individuals referred to by some international institutions and non-government organizations relate to the specific criminal offences under the Criminal Code of the Republic of Azerbaijan and have nothing to do with political and human rights related activities. These activities do not mean that these individuals can put themselves above the law and escape from the justified legal proceedings

3. Freedom of expression

27. The claims on the arrest of journalists on the basis of trumped-up charges and their sentences to long prison terms without a fair trial are due to distorted information presenting a biased view of the actual situation, whereby certain persons have committed

punishable acts and been sentenced to various terms of deprivation of liberty by the court decisions. Those decisions have nothing to do with the journalistic work of the individuals concerned, and the principle that everyone is equal before the law, regardless of position and occupation, applies to all cases.

28. Since 2009 the moratorium has been in effect on the application of articles 147 and 148 of the Criminal Code and no journalist has been criminally charged for defamation in Azerbaijan since then. The Law on Defamation was drafted in 2005, 2011 and 2013 with the requested expertise of the Council of Europe's Venice Commission. In February 2014, the plenum of the Supreme Court took a decision on the necessity of ensuring by the domestic courts that the prison sentences in defamation cases are imposed only in exceptional circumstances. Experience shows that due to lack of economic independence of media and reported cases of continued insults and libel against individuals by media outlets, currently the adoption of this Law could be counter-productive and complicate the situation.

29. According to the official information presented by the State Security Service of the Republic of Azerbaijan police found materials concerning «Hizmet hereket» and Fathullah Gulen in the apartment and vehicle of **Faig Amirov**, Director of «Azadlig» newspaper on 20 August 2016. On 22 August, 2016 he was arrested by the court decision on charges of inciting religious hatred under Article 283.2.2 and infringement on civil rights performing religious ceremony under Article 168.1 of the Criminal Code of the Republic of Azerbaijan and is currently held in pre-trial detention.

30. In order to avoid provocation directed against the strategic partnership relations between Turkey and Azerbaijan and not to allow terrorist propaganda to be openly broadcasted, the activity of the **ANS TV channel** was suspended temporarily by the relevant decision of the National Television and Radio Council. Preliminary investigation continues under articles 168.1, 283.2.2 of the Criminal Code of the Republic of Azerbaijan.

31. Upon the facts on violations in activities of some local and foreign NGOs, including **"the Institute for Reporters' Freedom and Safety"**, a criminal case was launched in accordance with the articles 308.1 (abuse of the office) and 313 (fraud) of the Criminal Code of the Republic of Azerbaijan. As a result of investigation facts of illegal ownership and tax evasion by the Chairman of the Institute were established for the period of 2006-2014. In view of thorough inspection, relevant documents, as well as computers, CD and other data carriers were seized. The abovementioned actions were authorized by the relevant court decision issued on August 07, 2015.

32. On April 22, 2014 the criminal case was launched on the basis of materials submitted by the Ministry of Justice of the Republic of Azerbaijan to the General Prosecutor's Office with regard to legislative violations disclosed in activities of a number of local non-governmental organizations and branches of some foreign organizations. It was established within the same case that the chief of the Baku Bureau of the non-profit organization - Radio Free Europe/Radio Freedom **Khadija Ismayilova** while discharging her service functions evaded large amounts of funds from state budget and through illegal entrepreneurship obtained large amount of profit. Taking into account the founded suspicions about her tax evasion she was detained by law enforcement agencies on 13 February, 2015. The criminal cases on articles 284.2 and 125 of Criminal Code of the Republic of Azerbaijan were merged on February 19, 2015 with a view of ensuring comprehensive, full and objective investigation of criminal prosecution on several crimes committed by one person within single process. On these grounds the renewed charges against Khadija Ismayilova on the articles 179.3.2 (embezzlement or squander), 192.2.2 (illegal entrepreneurship), 213.1 (tax evasion), 308.2 (abuse of power) and 125 (incitement to a suicide) of the Criminal Code were announced on February 24, 2015. Her detention period was prolonged in connection with the complexity of the case.

33. On 1 September, 2015 Khadija Ismayilova was imprisoned to 7 years and 6 months. An appeal lodged by her defence to Baku Court of Appeal on 25 November 2015 was denied by the Court. Following this decision a cassation was lodged. By its decision from 25 May, 2016 the Supreme Court partially ensured the cassation, the decision Baku Court of Appeal from 25 November, 2015 was changed, the execution under the articles 179.3.2 and 308.2 was stopped, article 192 was partially lifted and she was sentenced to imprisonment for 3 years 6 months conditionally and was released from arrest immediately.

34. Criminal case was initiated under articles 192.2.2 (illegal entreprenеurship), 213.2.2 (tax evasion), 308.2 (abuse of power) of the Criminal Code of the Republic of Azerbaijan on September 22, 2015 regarding the activities of officials of the internet media outlet **"Meydan TV"** in order to provide comprehensive, full and objective investigation of all facts of illegal entrepreneurship, tax evasion and abuse of power. "Meydan TV" media outlet acted as a representative of foreign media outlet without due accreditation by the Ministry of Foreign Affairs of the Republic of Azerbaijan.

35. On 29 August, 2014 **Seymur Haziyev**, the Head of the Department of «Azadlig» newspaper, bluntly violated public order in his resident settlement, without a valid reason insulted a person with whom he entered later into conflict and inflicted body injuries by an object used as a weapon. By the decision of Absheron District Court from 29 January 2015, Mr. Haziyev was sentenced to 5 years of imprisonment on charges of hooliganism committed with a weapon or objects used as a weapon under Article 221.3 of the Criminal Code of the Republic of Azerbaijan. Appeal complaints and the cassation appeal were not satisfied by the relevant courts' decisions.

36. Arrest was imposed on accounts of the Azerbaijan representation of **"Azad Avropa/Azadlig radio"** in "Azerbaijan International Bank" OJSC during the period of continuation of criminal prosecution on the basis of court decision dated December 20, 2014 related to the necessity for investigation of information of the Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan about conducting of suspicious bank operations. During investigation, documents related to bank accounts and financial operations were taken, examination of the activity of Baku office of the radio by specialists of the Ministry of Taxes the Republic of Azerbaijan was organized.

37. No tax inspection has been conducted vis-a-vis **Media Rights** Institute as claimed by the Statement of the Special Rapporteur.

4. Freedom of information

38. 10 countrywide, 13 regional, 1 satellite, 1 foreign broadcaster, 17 cable TV channels and 15 internet providers operate throughout Azerbaijan. 13 radio and 3 regional radio stations are broadcasting daily. Public TV, Public Radio, 4 state TV channels (Azerbaijan Television, Sport-Azerbaijan, Culture and CBC Sport) and 2 radio channels (Radio Republic and Public Radio) are state financed. CBC Sport, Radio ASAN, 15 internet providers and 6 cable nets have obtained license during last 2 years.

39. Access to internet in Azerbaijan is without any restrictions. No ban is put on social networks. Users can join any social network without hindrance. Number of social network users is increasing continuously. Number of Facebook users in Azerbaijan is more than 1 700 000.

40. Access to internet is possible through wire line, wireless and mobile technologies. As a result of this, 77% of the population is internet user, while 72% is the broadband internet user.

41. According to the International Telecommunication Union's *Survey on Information Society* 2016, 77% of the population in Azerbaijan is the internet user, 62,4% of the

households have computers, while 76.7% of households have internet access, all of the 3 mobile operators have 3G and 4G services, 60.92% of the population is broadband internet user. This survey has placed the Republic of Azerbaijan in the 58th position among 193 states for the ICT index. According to the International Telecommunication Union/UNESCO State of Broadband 2016 report, Azerbaijan is in the 36th position among 191 states for the number of internet users.

42. Since 2000 a special license for operation of internet providers is not required in Azerbaijan. Any individual and legal entity can operate as an internet provider. Today the number of internet providers in Azerbaijan is 50. Only 3 of them (6%) are government bodies.

43. The National Strategy 2014-2020 for the development of information society in the Republic of Azerbaijan and State Programme for the implementation of the National Strategy 2014-2020 for the development of information society in the Republic of Azerbaijan were adopted recently.

44. Thus, legislation of the Republic of Azerbaijan guarantees a right to every person to search, obtain and spread information in a free and unrestricted way. The above-said issues are governed by the Constitution of the Republic of Azerbaijan, Laws of the Republic of Azerbaijan on "Freedom of Information", "the Right to Obtain Information", "Protection of information", "Requests of citizens". Freedom of the mass media is guaranteed in the country. The Law of the Republic of Azerbaijan on "Mass Media" prohibits state censorship on mass media. Today, a number of newspapers, magazines, radio and TV companies, and information agencies operate in Azerbaijan with vast opportunities to express their opinions, disclose any facts not constituting state secret.

45. Pursuant to the Law of the Republic of Azerbaijan on "State Registration and State Register of Legal Entities" permeating legal and organizational fundamentals of state registration and keeping of state register of legal entities in Azerbaijan, information on founders (participants) of legal entities and their volume of share in chartered capital is provided upon request to persons stipulated in the above-referred Law.

46. Recently, development of the information society in the country, benefiting from its possibilities, overall application of the ICT in the state management have been framed in the "National Strategy for 2014-2020 on development of the information society in the Republic of Azerbaijan", State Program for 2016-2020 on implementation of National Strategy for 2014-2020 on development of the information society in the Republic of Azerbaijan".

47. The work done in the field of formation of information society in Azerbaijan has been highly appreciated by the international organizations. "Measuring the Information Society" report of the International Telecommunication Union listed Azerbaijan among the first ten countries for its dynamics of development. The Republic of Azerbaijan ranked 53 among 139 world countries in "Network Readiness Index" in Global Information Technology Report 2016 of the World Economic Forum. The State of Broadband 2016: Broadband Catalyzing Sustainable Development report by the ITU/UNESCO Broadband Commission for Sustainable Development has ranked Azerbaijan 36th among 191 nations in terms of Internet using.

5. Freedom of association

48. The number of non-government organizations is increasing annually and has reached 4,369. The amount of grants allocated to NGOs in 2016 has increased approximately 2.5 times compared to 2015.

49. The Ministry of Justice created an electronic data base for state registered organizations called the "Individual Electronic Window". The NGOs effectively use the system.

50. Registration of any legislation acts, changes and amendments to the existing laws regulating NGO activities are discussed with NGO representatives. The Council of State Support to Non-Governmental Organizations under the President of the Republic of Azerbaijan acts as the organizer of the events, including public discussions. Members of Parliament, representatives of executive authorities and all interested NGOs are invited to the discussions.

51. The government puts forward a new strategy on financing of NGOs. The national donor system is intended to develop on the basis of this strategy.

52. According to the legislation, registration of branches and representations of foreign non-governmental organizations is carried out in the Republic of Azerbaijan according to the Agreements concluded with those organizations. This issue is regulated by the Rules approved by the 16 March 2011 Decision of the Cabinet of Ministers.

53. The main purpose of the amendments to the legislation on receiving grants by the NGOs is to ensure the principles of the open government, responsibility and transparency and simplification of this process.

54. The Cabinet of Ministers of the Republic of Azerbaijan prepared the regulations on obtaining foreign grants which are discussed by the civil society institutions, international partners and relevant agencies. Thus, the latest decree regulates the issue of giving grants to civil society institutions by the state agencies (central and local authorities).

55. According to the decree of the President of the Republic of Azerbaijan "On the application of the principle of "the single window" in the procedure of issue of grants by foreign donors on the territory of the Azerbaijan Republic" dated October 21, 2016, the "single window" principle is applied in the procedure of issuing of grants by the foreign donors on the territory of the Azerbaijan from 1 January, 2017. This decree creates new legislative basis. According to this decree:

- the "single window" principle is applied in the procedure of issuing of grants by the foreign donors in the territory of Azerbaijan from 1 January, 2017;
- the coordinating agency in each field is defined according to the "single window";
- according to the previous legislation, foreign donors had the right to initiate the process of giving grants in the territory of Azerbaijan. The new amendments will provide recipients with the right to take up this initiative.

56. To ensure implementation of the mentioned Decree, the Cabinet of Ministers of the Republic of Azerbaijan has issued decisions on modifications to the Rules on registration of grant agreements (decisions) and Rules on obtaining the right by foreign donors to issue grants on the territory of the Republic of Azerbaijan. They envisage among others the following:

- elimination of necessity of submission of some documents' copies approved by the notaries;
- prolongation of the period for presentation and consideration of grant contracts;
- reduction of number of documents for registration of grant contracts;
- time for consideration of the issuing grants has been reduced twice.

57. In relation to the suspension of activities of NGOs, it should be noted that in accordance with Article 16.3 of the Tax Code, a taxpayer has a right to temporarily stop

taxable operations within the tax year. Under the Law "On Non-Governmental Organizations (Public Associations and Foundations), NGOs and branches and representations of foreign non-governmental organizations may apply to the Ministry of Justice in order to suspend their activities. In practice, in the period before and after entry into force of the relevant amendments, no decision was adopted by the Ministry of Justice regarding suspension of any non-governmental organizations' activities. Applications regarding suspension of activity made by NGOs are not related to the amendments, but due to wishing to be exempt from releasing financial statements during their actual financial inactivity.

58. Freezing of any organization's bank account can be implemented in accordance with the legislation.

6. Freedom of peaceful assembly

59. The issues of limits of implementation of freedom of assembly are reviewed within the context of constitutional norms regulating the fundamental human rights and freedoms in whole. In order to take necessary measures under article 5 of the Law of the Republic of Azerbaijan "On freedom of assembly", the local executive power authority is notified in writing for agreement of the time and place of holding the assembly and the route of the rally. Besides, in accordance with Article 3 of the Constitutional Law "On regulation of implementation of human rights and freedoms in Azerbaijan" and Article 11 of the Convention "On the protection of human rights and fundamental freedoms", the restrictions may be imposed on the right of freedom of assembly that is necessary in the democratic society, as provided for in the Article 49 of the Constitution.

60. The facts of intervention by the state to the meetings organized and held as defined in the Law "On freedom of assembly" were not recorded. Some organizers attempted to hold the meetings without prior notice. The law enforcement authorities have intervened in such meetings by applying the principle of expediency and proportionality defined by the law. The administrative reproaches and other responsibility measures applied about the separate persons for the actions conducted illegally are implemented within the framework of the legislation of the Republic of Azerbaijan and the requirement and recommendations of international documents on human rights and freedoms. The Ministry of Internal Affairs assesses in its internal supervision manner the proportionality of the measures taken and makes serious steps in case of occurrence of violations. Similar inspections are implemented by the Office of the General Prosecutor within the framework of procedural legislation.

61. According to Article 49 of the Constitution of the Republic of Azerbaijan, "Everyone has the right for meetings. Everyone has the right, having notified respective governmental bodies in advance, peacefully and without arms, meet with other people, organize meetings, demonstrations, processions, place pickets ".

62. The Law "On freedom of assembly" was adopted in order to ensure implementation of the Article 49 of the Constitution on 13 November 1998.

63. The Amendments to the Law "On "Freedom of Assembly" with the recommendations of Venice Commission of the Council of Europe, OSCE and national NGOs, came into force on May 30, 2008. The Amendments ensure the right to an effective remedy of legal advocacy procedures. In the case of prohibition or restriction of realization of the right on assembly, the court should handle the appeal and make a decision until the meeting time.

64. Some restrictions on meeting places are envisaged in legislation. The list of places, where gatherings, meetings, demonstrations and rallies can be prohibited was defined. The strategic assets, as well as, territory used for military purposes are included.

65. The other reasons of prohibition on mass actions are provided in legislation. These are:

- for the protection of the rights and freedoms of others;
- in order to prevent a breach of public order;
- for the prevention of disorder or crime;
- for the protection of public health;
- for the protection public morals.

7. Right to participate in public affairs

66. Enactment of the Law of the Republic of Azerbaijan "On Public Participation" in 2013 further stimulated the broadening of cooperation with civil society institutions, competences of Public Committee were further expanded in line with the Law, also the term of competence was increased and the Committee is actively involved in works conducted in various fields of justice.

67. There are different dialogue platforms where civil society and governmental bodies act jointly. Decisions are made in the form of consensus in majority of them and decisions without NGOs' vote cannot be made. Principle cooperation and dialogue platforms are the following:

1) Board of the State Support of the Municipalities under President of the Republic of Azerbaijan consists of 11 persons. 8 of them are the members of NGOs and 3 of them are the governmental representatives (Presidential Administration, Ministries of Justice and Finance). Members of NGOs shall be elected through secret voting and approved by the President for 4 years. Council provides financial aid (grants), organizational, consultative and methodical support for NGOs.

2) Multilateral Group on Transparency Initiative in Mine Exploration;

3) Joint Working Group on Human Rights, consisting of government, parliament and NGO members, as well as human rights defenders. The Group was set up in 2006 as a joint initiative of the Council of Europe and the Government of Azerbaijan;

4) Commission on Pardon under the President (there are members of NGOs and mass media);

5) Platform of Government and Civil Society on the Support to the Open Government-10 state bodies (including the Presidential Administration) and 31 NGO representatives;

6) Commission on early release of prisoners – Representatives of Ministry of Justice and NGOs;

7) Public Councils within the bodies of central and local executive authorities – formed through the election process in accordance with the Law on Public participation;

8) "Orkhus Center" under the Ministry of Ecology and Natural Resources.

68. The Ministry of Justice carries out effective mutual activity with civil society institutions and the Public Committee.

C Specific groups of human rights defenders at risk

69. According to the Constitution of the Republic of Azerbaijan all people are equal before the law and the court. The state guarantees equality of rights and freedoms of everyone, irrespective of race, nationality, religion, language sex, origin, financial position, occupation, political convictions, membership in political parties, trade unions and other public organizations.

D. Access to Justice

70. In accordance with Paragraph I of Article 127 of the Constitution of the Republic of Azerbaijan and Article 100 of the Law "On Courts and Judges", judges are independent and subordinate only to the Constitution and laws of the Republic of Azerbaijan.

71. In case of interference with the work of a judge, he/she shall refer to the Judicial-Legal Council in this regard.

72. In accordance with the Law "On Courts and Judges", mechanism for preventing external interference with the work of judges by the Judicial-Legal Council was established, for the purpose of strengthening independence of judges, decrease of judge salary during the term in power was prohibited, and proposals on financial procurement of first instance courts presented to the Ministry of Finance are to be accompanied by the opinion of the Judicial-Legal Council.

73. Provisions on independence of judges have also been reflected in Article 25 of the Criminal Procedure Code and Article 7 of the Civil Procedure Code of the Republic of Azerbaijan.

74. Additionally, in accordance with the Laws "On Judicial-Legal Council" and "On Courts and Judges", ensuring independence of judges was included in the competence of the self-government organ of the judiciary - the Judicial-Legal Council, 9 out of 15 members of the Judicial-Legal Council are judges representing various courts. Interference with Judicial-Legal Council's work by any other organ is not permitted.

75. It should be noted that, only judge members of the Judicial-Legal Council participate in the voting to adopt a decision on disciplinary proceedings, with the exception of the President of the Supreme Court of the Republic of Azerbaijan and the reporting judge.

76. Besides, in accordance with the Law "On Judicial-Legal Council", for the purpose of strengthening independence of the Council, as well as decreasing the role of the executive power, the competence to appoint judge members representing courts of first and appeal instances in the Council was revoked from the Supreme Court and the Ministry of Justice, and was entrusted to the Council itself based on direct proposal made to the Council by the Judges Associations; the Council's competence was enhanced so that, unlike the past procedure, now the Presidents of the Courts of Appeal and the Court on Grave Crimes are also appointed based on the recommendation of the Council.

77. Selection of judges is conducted in line with international standards through multistage sophisticated selection by test, as well as written and oral examination in full transparency. It is even broadcasted online on the internet. This modern judge selection system allows discovering judgeship assets with high theoretical and practical knowledge. Thus, the European Commission for the Efficiency of Justice, being interested in the selection of judges in our country, created an esteemed group of experts and followed this process firsthand. The European experts, having observed all stages of the selection process, have distinguished its transparency, objectivity, and neatness in their report. The report was widely discussed at the Commission's meeting with participation of

representatives from all Council of Europe member states, and adopting a special decision in this regard, Azerbaijan's experience was evaluated as an interesting model of best practice.

E. National human rights institution

78. According to the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan, the mandate of the Commissioner is to restore the human rights and freedoms violated by governmental and municipal bodies and officials of the Republic of Azerbaijan, as well as to prevent violation of human rights in cases envisaged in the Constitutional Law. These functions were extended in 2010, by empowering the institution with the functional as a National Preventive Mechanism (NPM) under the "Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

79. Ombudsman Institute was accredited with "A" status in 2006 by the Subcommittee on Accreditation (SCA) of the International Coordinating Committee on National Human Rights Institutions (ICC) and registered as a National Human Rights Institution in United Nations (UN) system. After the special review by the SCA it was re-accredited with "A" status in 2012. With this accreditation, Ombudsman Institute once again proved that the Constitutional Law and the activities of the Commissioner are in full conformity with Paris Principles.

F. Protection policy for human rights defenders

80. According to the Constitution of the Republic of Azerbaijan all people are equal before the law and the court. In this regard, human rights defenders cannot be segregated into a specific group which is in need of specific policies or mechanism to be protected.

IV. International and regional cooperation

81. Azerbaijan is a member of numerous international and regional organizations, as well as participates in a number of international initiatives. Developing multilateral diplomacy and forming positive agenda within the international organizations is one of the main priorities of foreign policy of Azerbaijan. Azerbaijan attaches particular importance to cooperation with the UN and its specialized institutions as a universal international organization and to reforming and increasing the efficiency of UN main bodies such as the Security Council and the General Assembly.

82. In June 2016, Azerbaijan gained the votes of 176 out of 184 countries that participated in voting at the UN General Assembly and was elected a member of the UN Economic and Social Council for 2017-2019. Along with being the central platform for professional discussions about sustainable development, ECOSOC will give Azerbaijan additional opportunities to contribute to international development.

83. Azerbaijan also demonstrated activity in other international organizations of which it is a member and made proposals to identify new formats of cooperation. In this regard, we can note the OSCE, the Council of Europe, CIS, the Cooperation Council of Turkic-Speaking States, the Economic Cooperation Organization, the Black Sea Economic Cooperation Organization and others.

84. As regards the allegations on non-execution of the rulings of the European Court of Human Rights in the context of Ilgar Mammadov case, it has to be underlined that the

Court in its judgment did not call for an immediate release of Ilgar Mammadov. The Court's judgment concerns the lawfulness of the applicant's pre-trial arrest and is therefore irrelevant to the applicant's current legal status.

85. Consistent measures are being carried out to restore Azerbaijan's full participation in EITI and OGP. These measures include, inter alia adoption of the National Action Plan (NAP) on open government promotion for 2016-2018, modifications to the legislation on registration of grant agreements and obtaining the right to issue grants, establishment of Open Government-Civil Society platform, creation of e-platform for monitoring implementation of NAP on open government promotion and etc.